

House File 357 - Introduced

HOUSE FILE 357

BY JORGENSEN

A BILL FOR

1 An Act relating to the powers of city boards of adjustment.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 414.12, subsection 3, Code 2011, is
2 amended to read as follows:

3 3. To authorize upon appeal in specific cases such variance
4 from the terms of the ordinance as will not be contrary to
5 the public interest, and, under the circumstances appealed
6 from, will better carry out the intent of the ordinance and
7 comprehensive plan than strict adherence to the ordinance
8 in instances where ~~owing to special conditions~~ a literal
9 enforcement of the height, bulk, or area provisions of the
10 ordinance will result in practical difficulties, or in the
11 case of provisions related to the use of property, when an
12 unnecessary hardship, and so such that the spirit of the
13 ordinance shall be observed and a substantial justice done
14 injustice would occur as a result of strict adherence to the
15 ordinance.

16 EXPLANATION

17 The bill modifies the authority of city boards of adjustment
18 to issue variances.

19 Current law permits the board of adjustment to grant a
20 variance from the ordinance in the event that such a variance
21 would not be against the public interest and is necessitated
22 by the creation of an unnecessary hardship. Such a variance
23 may only be granted in the event that the spirit of the zoning
24 ordinance and justice can be maintained.

25 The bill would require that a board of adjustment only
26 grant a variance when it would not be counter to the public
27 interest, and when, under the circumstances appealed from,
28 the variance would better carry out the intent of the zoning
29 ordinance and the comprehensive plan. In regard to height,
30 bulk, and area restrictions, the bill will allow the board to
31 authorize a variance where strict compliance would result in
32 practical difficulties. In regard to the use of property, the
33 bill will allow the board to grant a variance in cases where
34 strict compliance with the ordinance would create a substantial
35 injustice.